

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jin-An JIAO et al.

Application No.: 10/618,338

Confirmation No.: 8452

Filed: July 11, 2003

Art Unit: 1646

For: ANTIBODIES FOR INHIBITING BLOOD
COAGULATION AND METHODS OF USE
THEREOF

Examiner: X. Xie

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705

MS Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

On behalf of Applicants, the undersigned requests reconsideration of the patent term adjustment indicated in the Notice of Allowance. This application for patent term adjustment is being filed with payment of the issue fee and is, therefore, timely. The fee required under 37 CFR 1.705(b)(1) as set forth in 37 CFR 1.18(e) is enclosed with the present application.

Correct Patent Term Adjustment

Applicants respectfully request a credit of 171 days be added to the 169 days of adjustment as indicated on the Notice of Allowance. The additional credit, minus Applicants' delay, results in a revised total of 340 days of patent term adjustment.

STATEMENT OF FACTS

According to the USPTO's Initial Determination of Term Adjustment received with the Notice of Allowance, mailed September 28, 2009, Applicants are entitled to 169 days adjustment of patent term. Applicants respectfully disagree with the USPTO's calculation of Patent Term Adjustment of 169 days. Reconsideration is respectfully requested in view of the following facts and applicable rules.

First, the USPTO issued a Notice of missing parts on October 17, 2003. Applicants responded to this Notice on December 16, 2003 (within the three month time limit for PTA) with all of the documents necessary to fully comply with the Notice. Therefore, based on 35 USC 154(b)(2)(C)(ii) and 37 CFR 1.704(b), there was no delay on the Applicants' part. However, the USPTO issued a second Notice stating the first submission was not in compliance. Applicants subsequently responded on February 23, 2004 that the second Notice was in error and included copies of all documents submitted December 16, 2003. The USPTO accepted Applicants' argument. However, the calculation conducted by the USPTO erroneously subtracted 37 days as Applicants' delay, even though the second Notice was issued in error. As such, Applicants respectfully request reconsideration and correction to reflect that the Applicants' delay is 0 days.

Next, an Office Action was issued on January 16, 2007. Applicants responded in a timely manner to this Office Action on April 13, 2007. Therefore, based on 35 USC 154(b)(2)(C)(ii) and 37 CFR 1.704(b), there was no delay on the Applicants' part. An Advisory Action was issued June 4, 2007 in response to Applicants' response. Applicants filed a Request for Continued Examination (RCE) on June 29, 2007 in response to the Advisory Action. However, the USPTO's calculation subtracted 74 days from the Applicants from the time of the Office Action issuance to the filing of the RCE. Under 35 USC 154(b)(2)(C)(ii) and 37 CFR 1.704(b), Applicants have responded in a timely manner and as such, the deduction should be 0 days. In view of the foregoing, Applicants respectfully request reconsideration and correction to reflect that the Applicants' delay is 0 days.

Third, the USPTO issued an Office Action on June 19, 2008. Applicants responded in a timely manner on August 19, 2008. Therefore, based on 35 USC 154(b)(2)(C)(ii) and 37 CFR

1.704(b), there was no delay on the Applicants' part. The USPTO issued an Advisory Action on October 17, 2008. Applicants filed a response with RCE on November 18, 2008. Again, the USPTO subtracted 60 days from the Applicants from the time of the Office Action issuance to the filing of the RCE. Under 35 USC 154(b)(2)(C)(ii) and 37 CFR 1.704(b), Applicants have responded in a timely manner and as such, the deduction should be 0 days. In view of the foregoing, Applicants respectfully request reconsideration and correction to reflect that the Applicants' delay is 0 days.

Finally, the Office has failed to issue a patent within 3 years after the date on which the present application was filed (July 11, 2003). The time between July 11, 2006 and the first RCE (filed on June 29, 2007) is 351 days. Based on 35 USC 154(b)(1)(B) and 37 CFR 1.702(b), 1.703(b), Applicants are entitled to an additional credit of 351 days.

Applicants' independent calculation yielded a total PTO delay of 529 days and Applicants' delay of 189 days, for a revised total of 340 days of additional patent term. Based on the foregoing information, Applicants respectfully request reconsideration of the patent term adjustment.

CONCLUSION

Applicants respectfully request reconsideration of the Office's patent term adjustment calculation and request an adjustment of an additional 171 days of patent term adjustment.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. 146392002520. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: December 23, 2009

Respectfully submitted,

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